

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

**PROFESSIONAL ACIDIZING
AND CEMENTING ENTERPRISES, LLC**

Plaintiff,

v.

**HIGH TECH TOOLS, L.L.C. d/b/a
HIGH TECH RENTAL TOOLS**

Defendant.

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CIVIL ACTION NO. 3:08-CV-00725-B

MEMORANDUM ORDER

Before the Court is plaintiff Professional Acidizing and Cementing Enterprises, L.L.C.'s Motion for Leave to File Amended Complaint. After due consideration and review of the motion and related filings, plaintiff's Motion is **GRANTED**.

Generally a court determines whether to grant leave to amend under the liberal standard of Rule 15(a)(2), which provides the “[t]he court should freely grant leave given when justice so requires.” Fed. R. Civ. P. 15(a)(2). However, when the deadline to amend pleadings has expired, a court considering a motion to amend must first determine whether to modify the scheduling order under the good cause standard of Rule 16(b)(4).¹ In this case, the deadline for amendment of the pleadings set by the Scheduling Order was August 29, 2008. Plaintiff filed the Motion for Leave to File Amended Complaint on July 14, 2008. Therefore, the Court does not hold plaintiff to a “good

¹ The good cause standard found in Federal Rule of Civil Procedure 16(b)(4) states that “[a] schedule may be modified only for good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4)

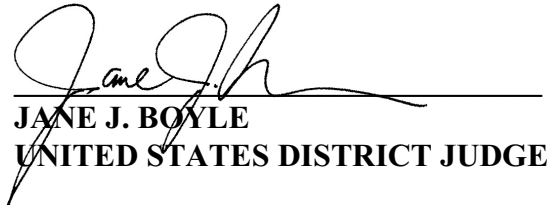
cause” standard, but will freely grant leave to amend if justice so requires it. See Fed. R. Civ. P. 15(a)(2).

Here, plaintiff seeks to add claims for foreclosure and other equitable remedies which relate to the claims for anticipatory breach of contract and declaratory judgment already before this Court. In response, defendant agrees that plaintiff should be allowed to amend to seek judicial foreclosure. In regard to the equitable remedies plaintiff seeks to add to its complaint, defendant has primarily addressed the merits of the claims. However, defendant has not provided this Court with any viable reason why it would be unjust to allow plaintiff to *amend its complaint* to seek the equitable remedies.

For the reasons stated above, plaintiff’s Motion for Leave to File Amended Complaint is **GRANTED**. Plaintiff is **DIRECTED** to file its First Amended Complaint within three days of the date of this Order.

SO ORDERED.

SIGNED September 30, 2008


JANE J. BOYLE
UNITED STATES DISTRICT JUDGE